

UNITED STATES DISTRICT COURT

DISTRICT OF VERMONT

TIMOTHY KEENE

vs

DANIEL SCHNEIDER and  
JARED HATCH

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\* DOCKET NO. 2:07-cv-00079  
\* WKS

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D E P O S I T I O N

OF

DANIEL SCHNEIDER

Taken on behalf of the Plaintiff  
on Monday, July 7, 2008 at the  
law offices of Rubin, Kidney, Myer & DeWolfe,  
Barre, VT.

APPEARANCES:

MAGGIE K. VINCENT, ESQ., of the firm Rubin, Kidney,  
Myer & DeWolfe, 237 N. Main Street, Barre, VT  
05641-4125, appeared and represented the Plaintiff.

DAVID R. GROFF, ESQ., of the firm Office of the  
Attorney General, 109 State Street, Montpelier, VT,  
05609-1001, appeared and represented the  
Defendants.

COURT REPORTER: Virginia L. Simmer, RPR

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1 you decided to place him under arrest and what  
2 happened then?

3 A. I ordered him to turn around and place his  
4 hands behind his back which he refused to do. And  
5 I ordered him several more times to place his hands  
6 behind his back which he refused to do. And then I  
7 advised him if he did not comply with my lawful  
8 orders I would spray him with my OC which then he  
9 again refused to comply with my orders. I then  
10 sprayed him in the face with my OC and then forced  
11 him to the ground.

12 Q. Okay. And did he -- did Mr. Keene engage in  
13 any assaultive behavior toward you?

14 A. He became defiant, standoff-ish. I perceived  
15 that as a clue that he could become assaultive.

16 Q. How did he display his defiance?

17 A. By crossing his arms, changing his tone of  
18 voice and telling me no, he was not under his  
19 arrest.

20 Q. Tell me how he crossed his arms?

21 A. Across his chest like this.

22 Q. So you just crossed your arms across your  
23 chest?

24 A. Yes, ma'am.

25 Q. And you regard that as preliminary

1 A. Yes.

2 Q. Do you remember just kind of on an exertion  
3 level how much force you expended in those two  
4 minutes that those 14 blows that you heard were  
5 being struck?

6 A. I was tired.

7 Q. Okay. And from the time -- let's go back to  
8 when you sprayed Mr. Keene with the OC. You  
9 thought you were alone in the house, right?

10 A. Well, I believed I was alone at his  
11 residence, unsure if it was just me and Mr. Keene  
12 in his residence. I was unsure of that.

13 Q. So you hadn't previously called for any kind  
14 of backup assistance or anything like that?

15 A. I don't recall.

16 Q. Was it a surprise to you that Trooper Hatch  
17 was there?

18 A. At that point when he came in, yes.

19 Q. You just hadn't been aware that he was on the  
20 way or anything like that?

21 A. I don't recall. At the point when I was  
22 speaking with Mr. Keene inside his residence I  
23 believed I was the only trooper there at the  
24 residence.

25 Q. And when you pulled up to his residence

1 is on the floor. Where were you in relation to his  
2 head?

3 A. Are you familiar with his house?

4 Q. Yes.

5 A. I was -- my back was facing the stairs and I  
6 was facing the door.

7 Q. Okay. So your back -- so in relation to his  
8 body on the floor was it --

9 A. I believe it would be his right side.

10 Q. Okay. Was Trooper Hatch on the left?

11 A. He was next to the door and I believe it  
12 would be on the left side.

13 Q. Okay. So one officer on either side?

14 A. Yes.

15 Q. Okay. And who was -- was one of you working  
16 on Mr. Keene's arms more than the other?

17 A. I don't recall. I would try to access an  
18 arm, he refused and then I would go to some type of  
19 strikes and then try to gain an arm again.

20 Q. Did you believe that Mr. Keene was in some  
21 altered state that he wasn't feeling the blows?

22 A. I believed he was intoxicated. I am unsure  
23 if he felt the blows or not.

24 Q. Okay. He didn't give you any indication that  
25 he was in pain from what was going on?

1 A. From the tape --

2 Q. Or from your recall.

3 A. I don't really think he was feeling them at  
4 that point. He still refused to comply with my  
5 orders so I believe the strikes were ineffective.

6 Q. So refusal to surrender his arms means to you  
7 that he didn't feel the blows?

8 A. They were ineffective.

9 Q. Okay. So the strikes that you were doing  
10 which were again -- I'm sorry, would you back up  
11 and describe what kind of strikes you were applying  
12 to him?

13 A. I applied knee strikes, closed fist strikes  
14 and then I stated elbow strikes but they're more of  
15 a forearm strike instead of a straight elbow  
16 strike.

17 Q. And those were ineffective?

18 A. Yes, ma'am, in my opinion.

19 Q. We kind of heard maybe three or four  
20 different volleys, you know, kind of there will be  
21 strike, strike, strike, strike, stop, Mr. Keene  
22 saying "I've got a daughter upstairs," then, you  
23 know, starting again. In between the kind of  
24 volleys of your assault on him was that when you  
25 were trying to get his arms?

1 Q. So how did you apply the pressure point?

2 A. According to my memory I had to try it twice,  
3 once was with my fingertips, my index fingertips,  
4 sorry. I applied pressure; it was ineffective.

5 Q. Where did you apply the pressure?

6 A. It's called a mandibular angular pressure  
7 point. It is in the soft portion behind your ear  
8 lobe on both sides. First applied it it was  
9 ineffective and then I believe I applied it again  
10 with my thumb tips.

11 Q. Okay. And?

12 A. And I observed his right arm to partially  
13 come out enough so I could obtain his bicep and  
14 then I was able to get him into a shoulder lock.

15 Q. Okay. And the shoulder lock -- by using the  
16 shoulder lock were you able to get his other arm?

17 A. Yes, I had applied pressure to that for him  
18 to release his other arm so we could put it in the  
19 small of his back.

20 Q. Okay. And then you got him handcuffed?

21 A. Yes, ma'am.

22 Q. What was Trooper Hatch doing while you were  
23 doing all this?

24 A. I believe he applied a few knee strikes like  
25 I said to his lower half, to his small of his lower

1 A. He closed his eyes, squinted hard, closed  
2 them.

3 Q. So his eyes were closed when he was sprayed?

4 A. Yes.

5 Q. At any point -- well, okay. After you  
6 obtained control of Mr. Keene's arm how many times  
7 did you strike him?

8 A. When I got him to a shoulder lock?

9 Q. Right.

10 A. None, I did not strike him again.

11 Q. Did Mr. Keene ever complain to you about  
12 being unable to breathe or having eye problems  
13 after he was in custody?

14 A. I don't believe so.

15 Q. Have all the use of force reports that you  
16 have submitted during your career at Vermont State  
17 Police been reviewed by the process you described  
18 earlier?

19 A. Yes.

20 Q. And what's been the result of those?

21 A. They've all been approved.

22 MR. GROFF: That's all.

23 EXAMINATION BY MS. VINCENT:

24 Q. I have a couple of follow-up too then as  
25 well. Have you ever been sent for any training